

1 **MINUTES OF THE COTTONWOOD HEIGHTS CITY**
2 **PLANNING COMMISSION MEETING**

3
4 **Wednesday, September 19, 2007**
5 **7:00 p.m.**
6 **Cottonwood Heights City Council Room**
7 **1265 East Fort Union Boulevard, Suite 250**
8

9
10 ***ATTENDANCE***

11
12 **Planning Commission Members:**

13
14 Gordon Nicholl, Vice Chairman
15 Geoff Armstrong
16 JoAnn Frost
17 Jerri Harwell
18 Doug Haymore
19 Amy Rosevear
20

City Staff:

Michael Black, Planning Director
Glenn Symes, Associate Planner
Shane Topham, City Attorney

21 **Excused:**

22
23 J. Thomas Bowen, Chair
24 Jim Keane
25 Sue Ryser
26

27 **REGULAR MEETING**

28
29 Vice Chairman Gordon Nicholl called the meeting to order at 7:00 p.m. Procedural issues were
30 reviewed.
31

32 **1. Public Comment.**

33
34 There were no public comments.
35

36 **2. Public Hearing – Flag Lot – Sunrise Hills Subdivision.**

37
38 (19:01:00) Associate Planner, Glenn Symes, presented the staff report and stated that the request
39 was for a flag lot minor subdivision. The property was located at 2505 East Fort Union
40 Boulevard. The site itself was approximately 20,000 square feet in size. He explained that in
41 order to develop a flag lot, the requirements for subdividing require that the front lot remain as a
42 minimum lot size in the zone. In this case it was the R-1-8 zone. The front lot would remain
43 slightly larger than 8,000 square feet. The rear lot had to be 125% of what the underlying zoning
44 required. In this case the requirement was 10,000 square feet.
45

1 Mr. Symes explained that the property itself sat slightly below the grade of Fort Union
2 Boulevard. One of the main reasons the applicants applied for the flag lot was due to access to
3 Fort Union Boulevard. He explained that it would be extremely difficult to divide the property.
4 There was a grade difference of approximately 10 feet that would prevent safe access to Fort
5 Union Boulevard for a second lot if the property were divided side-by-side in an east/west
6 fashion.

7
8 Mr. Symes read from the flag lot review standards. He thought the grade difference and the
9 safety issues proved the point about topographic conditions and why a street cannot or should not
10 be extended to the buildable area in the back. Because of that, staff recommended approval of
11 the flag lot as well as the required plat amendment.

12
13 (19:03:32) Vice Chair Nicholl opened the public hearing.

14
15 James Nash Grant remarked that when he received the notice from the City, he contacted
16 planning staff and had a discussion with them about what was planned. He was unable to
17 determine the location of the property and asked that an accurate address be provided. He stated
18 that the lot in question was not much larger than the adjacent lots, which contained single-family
19 homes. In speaking with staff, they indicated that what was proposed would meet all of the
20 requirements. Mr. Grant stated that he was present to object to what was proposed and suggested
21 the Commission turn down subdivisions in the area and maintain it as single-family residential.

22
23 (19:076:45) Gary Penrose identified himself as a Sunrise Hill Circle property owner. He asked
24 what zoning would be applied to the proposed flag lots. Vice Chair Nicholl responded that they
25 would take on the same zoning as the underlying area, which was R-1. Mr. Penrose predicted
26 that his home was the least expensive in the circle and estimated its value at \$450,000 to
27 \$550,000. Looking at the lot, he noticed that it could not be accessed from Fort Union
28 Boulevard. He asked how the lots could be developed without being so small that they degrade
29 the value of the other homes in the area. He did not want to see 1,400 to 1,600 square foot
30 homes near the top entrance of the street. He commented that there was no way to construct an
31 adequate road and still have enough room for a decent sized home. Mr. Penrose remarked that
32 they built their home about 10 to 12 years ago and built there specifically because they did not
33 want to live in a tract home type area. He was concerned that that was what was being proposed.
34 He explained that there were existing conditions within the circle based on the fact that there
35 were step-downs. He could not believe someone would take Lot A and be able to build a home
36 that would be worth anywhere near the average value in the circle. It was noted that there was
37 already a structure on Lot A. Mr. Penrose understood that and stated that the property needed to
38 be completely bulldozed and sold to someone who would build a nice home similar in value to
39 the ones around it.

40
41 Planning Director, Michael Black, explained that there was a bigger issue in the City where there
42 are not enough ownership opportunities for people to live in the area. He explained that if there
43 were minimum square footage requirements in the City that would do more to push people out
44 and make Cottonwood Heights an elitist City than anything else. There were no minimum
45 square footage requirements preventing someone from building a small home if they chose to.
46 Mr. Penrose asked if the neighbors were supposed to accept the fact that the approval would

1 reduce the value of their homes by \$50,000 to \$75,000. He reported that lots in Mill Hollow
2 were valued at \$500,000. He did not view that as elitist and thought it was part of living in a
3 nice area and being willing to pay for it. He did not view Cottonwood Heights as similar to West
4 Valley City. What was proposed would destroy the value of the surrounding properties. He did
5 not think that was right. He thought the issue was greed on the part of the applicant who wanted
6 to divide the property and sell the lots individually.

7
8 Mr. Penrose was informed that the Commission's concerns were for Cottonwood Heights. There
9 were laws and ordinances in place adopted by the City Council that the developer would have to
10 abide by. One of those laws was the flag lot ordinance. The City went to great lengths to make
11 absolutely certain that the flag lot ordinance was as restrictive as possible. Cottonwood Heights'
12 flag lot ordinance was significantly more restrictive than the flag lot ordinances in other areas of
13 the County. He reiterated that the property was within the R-1-8 zone, which meant that the
14 minimum lot size was 8,000 square feet. Any property owner who can successfully divide it into
15 two lots and still maintain the 8,000 square foot minimum could do so. With the flag lot
16 ordinance, because the property sits behind another property, it was required that the lot be 125%
17 the size of the underlying zoning. Additional setback and height restrictions were also imposed
18 to ensure that the views of others are not blocked.

19
20 Mr. Penrose was concerned that there would be more vehicles on the site than there was parking
21 for. He explained that there were requirements that there be a certain amount of landscaping on
22 the lot. During the wintertime there could be no parking in the circle because of plowing issues.
23 Mr. Black explained that the new residents would be subject to the same requirements as the rest
24 of the neighbors. Mr. Penrose thought they were "opening a can of worms". He thought it was
25 nice for the developers to make money but he did not think what was proposed was fair to the
26 people who live in the community. He asked about the driveway width. Mr. Black informed
27 him that the driveway would have to be 12-feet wide. Building plans had not been submitted but
28 it was possible that both lots would use the driveway. The neighbors would fight the issue if
29 necessary if they start seeing cars parked in the circle blocking things off. They did not want the
30 neighborhoods to be destroyed.

31
32 Mr. Black explained that the matter would not go on to the City Council. What was applied for
33 was a permitted use that the Planning Commission would make a decision on. Mr. Penrose
34 thought the City had sold out Sunrise Hill Circle. He clarified that he was opposed to dividing
35 the property. He confirmed that his daughter planned to do the same thing but she owned 1.5
36 acres rather than .47 acre. He complained that when the lot is divided in half, it will be nearly
37 25% smaller than any lot in the circle. It was noted that the proposed property met the
38 minimums of the Code. With or without the flag lot ordinance someone could build a house on
39 the property. The flag lot ordinance made it safer because they would not be accessing Fort
40 Union Boulevard.

41
42 In response to a question raised, Mr. Black reported that the flag lot ordinance was put in place in
43 June 2006; however, prior to January 2005 there was one consistently on the books with the
44 County. The only time there was not a flag ordinance in effect was between January 2005 and
45 June 2006. He clarified that the general plan called for nothing in the area other than R-1.
46

1 City Attorney, Shane Topham, explained that if there were CC&Rs with the subdivision, they
2 could provide some ability for the other owners to control the quality and type of building that
3 takes place on the property. The City, however, would not enforce private CC&Rs. The City's
4 only concern would pertain to enforcement of its zoning ordinance.

5
6 (19:27:25) There were no further public comments.

7
8 Zoning issues were discussed. It was noted that when the property was subdivided, nicer lots
9 were developed, however, any lot could subdivide into two if there was enough property.
10 Commissioner Haymore was very sympathetic to the concerns of the neighbors. If it were his
11 neighborhood, he also would fight it. He believed, however, that he would lose the fight because
12 of the legal restrictions on what can be limited for land use. It was clarified that certain things
13 stated by Mr. Black were not public policy nor adopted by the City Council, but were his
14 personal opinion. Commissioner Haymore suggested they be taken in that light. While he
15 sympathized with the neighbors, he believed staff had made the correct recommendation and the
16 Commission had no option but to approve the request.

17
18 (19:29:24) *Commissioner Haymore moved to approve the proposal as recommended by staff.*
19 *Commissioner Rosevear seconded the motion.*

20
21 Commissioner Rosevear understood the concern of the neighborhood but believed each property
22 owner had a property right. She supported property owners in building and designing according
23 to the laws in place. She believed staff came to the recommendation for approval based on the
24 existing ordinance and she had not seen sufficient evidence to deny the application.

25
26 *Vote on motion: Geoff Armstrong-Aye, JoAnn Frost-Aye, Jerri Harwell-Aye, Amy Rosevear-*
27 *Aye, Doug Haymore-Aye, Gordon Nicholl-Aye. The motion passed unanimously.*

28
29 **3. Public Hearing – Conditional Use Permit – Planned Unit Development (PUD) –**
30 **Willow Creek Villas.**

31
32 Mr. Symes presented the staff report and stated that the request was for a conditional use permit.
33 The address was 2725 East Creek Road and involved 5.5 acres in all. The property was also
34 known as the Brett Steel property. The zoning of the property was R-1-10 with 10 lots
35 requested. The existing home would be maintained as Lot 6 with the nine new additional lots
36 proposed. The private road would be on the east side on the lower end and on the west side on
37 the upper portion. The open space proposal was for a portion of linear park and a portion of
38 natural vegetation area. An access easement had been worked on with this and the adjacent
39 property owner to provide a fire department turnaround to the adjacent property. There would be
40 no permanent ingress or egress to the Danish Heights PUD.

41
42 The setbacks for the property were the standard for R-1-10, however, based on the topography
43 and the grading plan, the setbacks would be much larger. The property was located in a gully
44 between the Danish Heights PUD and the Scottsdale Ridge subdivision. An outline of the
45 landscaping plan was shown. The grading plan was required because of the unique conditions on
46 the site. The applicants were asked to identify the location of the building pads and the

1 elevations. The City Engineer performed a thorough review to ensure the accuracy of the
2 elevations.

3
4 (19:35:34) Mr. Symes stated that there was a sight distance issue as the property enters onto
5 Creek Road. Staff had worked with the developer and his engineers to develop mitigation
6 strategies. The plan was to shave back part of the hillside and retain it with a block retaining
7 wall. Doing so would increase the sight distance necessary to safely enter and exit the property.
8 There was no intent to change the alignment of the lanes, so the objective was to mitigate speeds
9 on the hill. Although the sight distance would be increased, they did not believe the speed would
10 increase since people would still have to go through the existing lane alignment.

11
12 With regard to fencing and screening, the applicants were not proposing any perimeter fences
13 and were relying on the natural vegetation to screen much of the project. Additional screening
14 and vegetation would be required between some of the lots. Staff would work with the
15 developer to keep as much of the vegetation as possible and only remove what is absolutely
16 necessary for the road and the homes. Mr. Symes explained that the architecture would be
17 reviewed based upon the minimum standard. No gate was presently proposed for the project. If
18 a gate were desired, the applicants would need to alter the plans slightly to show the location.
19 Other details would have to be worked out. Staff recommended approval of the preliminary plat.
20 It was noted that the existing Brett Steel plan would also need to be amended. Changes to the
21 staff report were read into the record.

22
23 (19:39:27) The applicant, Dade Rose, remarked that they had spent the last 12 months working
24 with the Planning Department. They felt they had an excellent project that would be beneficial
25 to the community.

26
27 Vice Chair Nicholl opened the public hearing.

28
29 William Vargo gave his address as 2665 East Chalet Circle and stated that his property was
30 located directly behind Lots 1 and 2. He thought the applicants had done an excellent job
31 planning the project. He asked for a description of the retaining wall that was planned. He
32 remarked that the property slopes directly into his lot and he was concerned about drainage. He
33 reported that there was quite a bit of runoff nearly year round.

34
35 Mr. Symes was unsure whether any retaining walls were proposed next to Mr. Vargo's property.
36 With regard to drainage, he stated that there should not be any runoff onto adjacent properties.
37 He explained that that was one of the minimum qualifications for development. The applicants
38 submitted a drainage plan that would collect the runoff from between the lots using an inline
39 system connected to the City storm drain. Richard Cook identified the site contours in relation to
40 the existing propane tank on the site.

41
42 (19:45:45) Mr. Vargo stated that he built his home because of the privacy it provided and the
43 beautiful view from the back. He requested that the house built directly behind his home be
44 restricted to a rambler. He thought it would be off putting to have a home looking down into his
45 backyard and potentially could reduce his property value. Mr. Topham explained that the City
46 had a height limit of 35 feet, which would be the standard applicable throughout the project. He

1 did not know of a way to restrict the lots beyond the standard of general application throughout
2 the project. The 35 feet would be measured from natural existing grade to the highest point of
3 the structure. Mr. Vargo thought the developer's plan was much better than it could have been
4 and thought much of it was very well done. He complimented City staff for the changes made to
5 the road and the green belt areas. He thought the layout was as good as it could be for the area.

6
7 (19:49:04) Ron Hansen gave his address as 2878 East Bengal Boulevard. He reported that he
8 was the owner of the property to the east and the north of the project. He was neither against it
9 nor for it but he had some questions. He identified himself as the Water Master for Big Willow
10 Irrigation Company and noted that the tail water from the irrigation ditch runs through the
11 property. He asked if provisions had been made to pipe it through. Mr. Symes responded that
12 that was one of the critical elements of the drainage plan. Mr. Hansen remarked that toward the
13 upper end of the project, the plan showed the roadway curving out. He requested that a fire crash
14 gate be installed at the end for future development or fire control. Mr. Symes stated that that had
15 been considered, however, staff did not receive the request in time to make the change to the
16 preliminary plat. It was, however, something, staff had looked at and considered as an option.
17 One of the criteria was how the other property would be developed. He remarked that there
18 might not be a need for it. If necessary, staff could amend the plat in the future. Mr. Hansen
19 referred to the retaining wall and asked how it could be built on his property. Vice Chair Nicholl
20 explained that the retaining wall would be built on the Creek Road easement property.

21
22 (19:52:13) Rick Plautz gave his address as 7941 South Majestic Ridge Drive and stated that his
23 property was directly adjacent on the west to Lot 10. He asked what rights he would have as an
24 adjacent resident to suggest conditions that might be important to him as the property is
25 developed. Mr. Topham explained that in land use there were two types of uses in this context.
26 One was a permitted use where the applicant has an absolute right to do the particular thing that
27 is permitted with his property. The other was a conditional use, which requires application to the
28 City. In this case, the application had come to the Planning Commission for a public hearing and
29 decision. The State law that controls how cities can impose planning and zoning laws on land
30 within their jurisdiction was known as the Land Use Development Management Act (LUDMA).
31 It says that a conditional use has to be approved by the City if reasonable conditions can be
32 imposed that mitigate the recently anticipated detrimental impacts of the proposed conditional
33 use. The City would not have the absolute ability to deny the use and would have to look at the
34 reasonably anticipated detrimental impacts of the project on the City and the surrounding areas.
35 They then determine whether the impacts are material and if so, impose reasonable conditions to
36 mitigate the impacts of the detrimental effects.

37
38 Mr. Plautz stated that there were a lot of contours in the property with a ridge and a couple of
39 gullies on each side. It was difficult for him to visualize what a house on the property would
40 look like from his property. It was not clear to him what types of vegetation would be preserved
41 and/or added. He asked if anything would be done to preserve his current level of privacy in the
42 event the view from his lot is directly into someone's back yard. Vice Chair Nicholl stated that
43 the developer had not yet provided a schematic of the type of homes proposed or the elevation on
44 any specific lots. The developer would present further details to City staff as the project
45 proceeds. It was stressed that the applicant would have to comply with the City ordinance,

1 which included height and setback restrictions. Within those restrictions, the applicant would
2 have the option to build the home he wished to.

3
4 (19:57:35) Commissioner Rosevear was concerned about what vegetation would be preserved.
5 One of the conditions proposed would require that all areas of natural vegetation not specifically
6 required for roadways, retaining walls, and home construction be protected. Staff would visibly
7 mark the landscaping and trees to remain before a grading permit is issued.

8
9 Vice Chair Nicholl remarked that the Commission would look out for the citizens' best interests
10 with the caveat that they have a developer who has a right to develop. A workable situation
11 between the two needed to be reached.

12
13 With regard to the fire access, Mr. Rose stated that a crash gate would be provided. He had met
14 with fire department representatives on several occasions and they were comfortable that the fire
15 safety issues were resolved. Mr. Rose recognized the beauty of the property his goal was to
16 retain as much of the green area as possible.

17
18 There were no further public comments. Vice Chair Nicholl closed the public hearing.

19
20 (20:02:44) *Commissioner Rosevear moved to approve as recommended by staff, the request for*
21 *the conditional use permit for development of a 10-lot planned unit development and approval*
22 *of a preliminary plan subject to the following conditions:*

23
24 ***Planning:***

- 25
26 1. *That the number of lots be limited to ten (10).*
27
28 2. *All landscaped space counted toward the open space calculation be kept as an*
29 *irrevocable easement over individual lots to ensure perpetuity of open space.*
30
31 3. *Landscaping shall be completed as the plans represent and shall be completed at the*
32 *time of final occupancy for each lot. In addition, a 100% landscape bond shall be*
33 *required to ensure the improvements are made as represented.*
34
35 4. *All landscaped trees shall be a minimum of a 2-inch caliper upon planting.*
36
37 5. *The developer shall maintain all open space and landscaping within common areas*
38 *until the time the developer turns over control to the HOA.*
39
40 6. *That increased landscaping is placed on the west side of the private road adjacent to*
41 *Lots 7 through 9 to ensure proper screening of the roadway from adjacent property*
42 *owners to be reviewed by staff for their approval.*
43
44 7. *That all areas of natural vegetation that are not specifically required for roadway,*
45 *retaining wall, and home construction be protected and preserved. Planning staff shall*

visibly mark, review, and confirm before a grading permit is issued the vegetation that is to remain.

8. *The setbacks for the PUD shall be as follows:*

- a. *Front – 25 feet*
- b. *Side yard – 8 feet and 12 feet for combined 20-foot minimum*
- c. *Rear yard – 20 feet*

9. *That all improvements to the cross-section of Creek Road be completed before final occupancy is granted for any building.*

10. *Lighting is required to be full cutoff able.*

11. *The developer shall provide refuse collection for the properties.*

12. *The architecture for homes shown in the approved plans shall be the minimum standard for architecture in the development, and each new plan shall be examined by staff for consistency.*

13. *Staff shall review all building permit applications for new homes to ensure architectural compliance and consistency.*

14. *That parking will be allowed on only one side of the private street.*

15. *That the conditional use permit be reviewed upon complaint.*

16. *The developer shall install a speed radar equipped speed limit sign on Creek Road at a place to be determined by the Public Works Director.*

Engineering:

1. *That all geo-technical calculations be consistent with the requirements of the City Engineer.*

2. *That any changes to the geo-technical study be reviewed by the City's Engineer and Geologist prior to the recording of the final plat.*

3. *That the developer follow the recommendations of the City Engineer with regard to all retaining walls and slope disturbance.*

4. *That the developer follows the grading plans as submitted and reviewed by the City Engineer.*

5. *That any changes to the grading plan be reviewed by the City Engineer.*

1 ***Fire Department:***

- 2
- 3 1. ***The installation of three (3) fire hydrants. Water systems must be installed and***
- 4 ***functional prior to arrival of combustible construction elements on site.***
- 5
- 6 2. ***That the fire hydrant installed has a three-foot clear area around it in which no other***
- 7 ***obstruction is placed.***
- 8
- 9 3. ***Minimum inside turning radius of 28 feet on all roads. Roads must be able to support***
- 10 ***imposed loads of fire apparatus in all weather conditions.***
- 11
- 12 4. ***All building and fire code requirements must be followed.***
- 13
- 14 5. ***That all measurements of the turnaround be approved as per standards and***
- 15 ***specifications.***
- 16

17 ***Approval of the Brett Steel plat amendment was also recommended in association with the***

18 ***application. Commissioner Armstrong seconded the motion.***

19

20 Commissioner Haymore stated that this was one of the most detailed site reviews he had seen.

21 He realized that every site review did not justify the level of attention to detail that this one did.

22 He thought it was refreshing to see that staff and the developer had worked diligently to address

23 the issues. He was impressed by the level of cooperation and solutions to problems that

24 addressed both the community and developer's needs.

25

26 ***Vote on motion: Geoff Armstrong-Aye, JoAnn Frost-Aye, Jerri Harwell-Aye, Amy Rosevear-***

27 ***Aye, Doug Haymore-Aye, Gordon Nicholl-Aye. The motion passed unanimously.***

28

29 **4. CANCELLED – Wasatch Office Project.**

30

31 The above presentation was cancelled at the request of the applicant and was expected to be

32 rescheduled to the next Planning Commission Meeting scheduled for October 3.

33

34 **5. Approval of Minutes of August 15, 2007.**

35

36 (20:05:22) ***Commissioner Armstrong moved to accept the minutes of August 15, 2007.***

37 ***Commissioner Harwell seconded the motion. Vote on motion: Geoff Armstrong-Aye, JoAnn***

38 ***Frost-Aye, Jerri Harwell-Aye, Amy Rosevear-Aye, Doug Haymore-Aye, Gordon Nicholl-Aye.***

39 ***The motion passed unanimously.***

40

41 **6. Planning Director's Report.**

42

43 (20:06:02) Mr. Black offered to answer questions about Wasatch Office. In response to a

44 question raised, Mr. Symes reported that the proposal was for three new lots in addition to the

45 one existing at the Alan Layton subdivision.

46

1 With regard to the Staples decision before the Board of Adjustment, Mr. Black reported that the
2 deliberations would take place in a closed meeting of the Board of Adjustment. The hearing on
3 the item was held previously.
4

5 **7. Adjournment.**
6

7 (20:08:42) *Commissioner Haymore moved to adjourn. Commissioner Rosevear seconded the*
8 *motion. Vote on motion: Geoff Armstrong-Aye, JoAnn Frost-Aye, Jerri Harwell-Aye, Amy*
9 *Rosevear-Aye, Doug Haymore-Aye, Gordon Nicholl-Aye. The motion passed unanimously.*
10

11 The Planning Commission Meeting adjourned at 8:09 p.m.

1 I hereby certify that the foregoing represents a true, accurate, and complete record of the
2 Cottonwood Heights City Planning Commission meeting held Wednesday, September 19, 2007.
3
4
5

6 
7
8

9 Teri Forbes
10 T Forbes Group, Inc.
11 Minutes Secretary
12
13

14 Minutes approved: 10-17-07 sm